

ASSEMBLY BILL

No. 785

Introduced by Assembly Member Bass

February 26, 2009

An act to add Section 3060.95 to the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 785, as introduced, Bass. Community sanctions: parole violators. Existing law provides for various sanctions to be imposed on persons who violate parole, including reincarceration.

This bill would state the Legislature's intent that community sanctions be instituted for parole violators who present a lower risk to public safety, as specified. The bill would require the Department of Corrections and Rehabilitation to implement a "parole violation decisionmaking instrument" to provide guidelines for use by parole agents and the Board of Parole Hearings to determine the most appropriate sanctions for parole violators, as specified. The bill would require the department to adopt regulations to implement these provisions. The bill would provide that its provisions do not limit the authority of counties to prosecute parolees who commit new crimes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares as follows:
- 2 (a) That the state's 33 prisons are operating at approximately
- 3 200 percent of capacity. Several thousand California inmates have
- 4 been transferred out of state to help relieve overcrowding.

1 (b) That approximately 70,000 parole violators are sent back to
2 these overcrowded prisons each year. Approximately 20 percent
3 of these violators are returned to custody for a technical violation
4 of parole, not for the commission of a new crime, resulting in a
5 stay of usually four months or less, and these violators do not
6 receive reentry services to stop the cycle of reoffending.

7 (c) Many reports and commissions have recommended the
8 adoption of an evidence-based risk assessment. These include, but
9 are not limited to, the following: the Rehabilitation Strike Team
10 Report to the Governor (12-07), which included a specific
11 recommendation for using a parole violation decisionmaking
12 matrix; the California Expert Panel Report (6-07) that
13 recommended development of a parole sanctions matrix including
14 sanction guidelines for parole agents; and the Little Hoover
15 Commission Report (11-03) entitled “Back to the Community:
16 Safe and Sound Parole Policies” which recommended that the
17 Department of Corrections and Rehabilitation use structured
18 decisionmaking and alternative sanctions in responding to parole
19 violations.

20 (d) That community sanctions should be instituted for parole
21 violators who represent a low risk to public safety based on the
22 nature of the parole violation, their criminal history, and the
23 outcome of risk assessments as authorized in Section 33 of Chapter
24 175 of the Statutes of 2007. Community sanctions include, but are
25 not limited to, community work crews, increased supervision,
26 increased drug testing, home detention, day reporting centers, and
27 short-term incarceration.

28 SEC. 2. Section 3060.95 is added to the Penal Code, to read:

29 3060.95. (a) No later than January 1, 2010, the Department
30 of Corrections and Rehabilitation shall begin statewide
31 implementation of a parole violation decisionmaking instrument
32 designed to provide guidelines for use by parole agents and the
33 Board of Parole Hearings to determine the most appropriate
34 sanctions for parolees who violate their conditions of parole.

35 (b) For purposes of this section, a “parole violation
36 decisionmaking instrument” provides ranges of appropriate
37 sanctions for parole violators given relevant case factors, such as
38 offense history, risk of reoffending, risk of violence based on a
39 validated risk assessment tool, need for treatment services, the

1 number and type of current and prior parole violations, and other
2 relevant statutory requirements.

3 (c) Parole agents and, when a violation of parole has been
4 referred to the board, the board, shall impose sanctions on parole
5 violators in accordance with the parole decisionmaking instrument.

6 (d) The department shall adopt emergency regulations to
7 implement this section initially, and shall subsequently adopt
8 permanent regulations that make appropriate changes in policies
9 and procedures to reflect the intent of this section.

10 (e) Subject to legislative appropriation, the department shall
11 ensure that sufficient bed or program capacity is available in the
12 community to assign parole violators to those sanctions designated
13 in the parole violation decisionmaking instrument.

14 (f) Nothing in this section shall limit the authority of counties
15 to prosecute parolees who commit new crimes.